

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3922 of 1990

with

SPECIAL CIVIL APPLICATION No.3923 of 1990

with

SPECIAL CIVIL APPLICATION No.3924 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? No

2. To be referred to the Reporter or not? No @@
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No

3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil
Judge?No

ABDUL RAZAK HAJI LATIF MEMAN & OTHERS

Versus

STATE OF GUJARAT

Appearance:

Kum. V.P.Shah, Senior Advocate, with Shri P.J.Bhatt,
Advocate, for the Petitioner (in all matters).

Shri M.R.Anand, Government Pleader, with Shri
T.H.Sompura, Assistant Government Pleader, for
the Respondents (in all matters).

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 26/03/96

ORAL JUDGEMENT

The identical orders passed by the Additional Chief Secretary, Revenue Department (Appeals), Ahmedabad on behalf of the State Government (respondent No.1 herein) on 29th March 1988 in exercise of its revisional powers under section 211 of the Bombay Land Revenue Code, 1879 (the Code for brief) is under challenge in all these petitions under Article 227 of the Constitution of India. Thereby the N.A.Permission granted by the Taluka Development Officer (respondent No.2 herein) by his orders passed under section 65 of the Code with respect to the subject-matter of these petitions some time in 1981 is cancelled.

2. The facts giving rise to these petitions move in a narrow compass. Respondent No.2 granted what is popularly known as the N.A.Permission under section 65 of the Code with respect to the subject-matters of these petitions. A copy of the order granting the N.A.Permission is at Annexure-A to each petition. It appears that it came to the notice of the concerned officer of respondent No.1 herein. He appears to have found it not according to law. Its suo motu revision under section 211 of the Code was contemplated. Thereupon, a show cause notice came to be issued on 28th April 1983 calling upon the beneficiary of the order at Annexure-A to each petition to show cause why the said order at Annexure-A to each petition should not be revised. A copy of the aforesaid show cause notice is at Annexure-C to each petition. A reply thereto was filed. Its copy is at Annexure-D to each petition. Thereafter, by the order passed on 25th July 1983 on behalf of respondent No.1, the N.A.Permission granted by the order at Annexure-A to each petition came to be cancelled. Its copy is at Annexure-E to each petition. It was

separately challenged by way of a writ petition in the High Court. All allied writ petitions were heard together. By the common judgment delivered in all the aforesaid writ petitions on 16th June 1987, this court accepted all the writ petitions and set aside the order at Annexure-E to each petition and remanded the matter to respondent No.1 for deciding the matter afresh in the light of the directions contained therein. Its copy is at Annexure-F to each petition. It appears that pursuant thereto respondent No.1 passed the order of 29th March 1988 but communicated on 2nd May 1988 again cancelling the N.A.Permission granted by the order at Annexure-A to each petition. Its copy is at Annexure-G to each petition. Its correctness is under challenge in all these petitions under Article 227 of the Constitution of India.

3. The factual position involved in each of these three petitions is similar to, if not altogether identical with, those in the group of matters bearing Special Civil Applications Nos.3886 of 1990 to 3921 of 1990 decided on 20th March 1996. These three petitions raise the very same questions of law in the light of similar fact-situations. For the reasons recorded in the aforesaid ruling of this court in Special Civil Applications Nos.3886 of 1990 to 3921 of 1990 decided on 20th March 1996, all these three petitions deserve to be accepted and the reliefs claimed therein deserve to be granted.

4. In the result, each petition is accepted. The order passed by and on behalf of the State of Gujarat (respondent No.1 herein) on 29th March 1988 but communicated on 2nd May 1988 at Annexure-G to each petition is quashed and set aside and the order at Annexure-A to each petition is restored. Rule is accordingly made absolute to the aforesaid extent with no order as to costs.

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